UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32

SOUTHWEST REGIONAL COUNCIL
OF CARPENTERS

-and-

BRAND SAFWAY SERVICES, LLC Case: 32-CD-251616

-and-

LABORERS INTERNATIONAL UNION
OF NORTH AMERICA, LOCAL 169

BRIEF OF SOUTHWEST REGIONAL COUNCIL OF CARPENTERS UNDER NATIONAL LABOR RELATIONS ACT § 10(k)

I. INTRODUCTION

A hearing in this matter was held on February 18, 2020 before Hearing Officer, Alex Hajduk, of NLRB Region 32 in Reno, Nevada. The proceeding originated under section 10(k) of the National Labor Relations Act ("Act") which alleges that the Southwest Regional Council of Carpenters ("SWRCC") engaged in unlawful conduct to protect their assignment of work against a competing claim by the Laborers Union of North America, Local 169 ("Laborers").

II. JURISDICTION

A. The Business of The Employer

The parties stipulated that Brandsafway Services ("BSS") is an employer within the meaning of the Act and engaged in interstate commerce. (Tr. 14:6-18).

B. The Labor Organizations Involved

The parties stipulated that both unions are labor organizations under the Act. (Tr. 14:19-15:6).

III. THE DISPUTE

A. Description of the Work in Dispute

The work at issue is "[t]he loading/unloading, moving, erecting and dismantling scaffolding and related clean up at the Marriott Aloft Hotel project in Reno, Nevada." (Tr. 15:9-15)

B. Facts of the Case

In 2019, a non-union general contractor subcontracted a portion of the work on the Marriott Aloft Hotel project ("Aloft project") in Reno, Nevada to BSS. (Tr. 39:23-25). It has been BSS' practice to assign all its scaffolding jobs in the Reno area to the SWRCC's Carpenters

("Carpenters"). (Tr. 35:2-11). Thus, according to BSS' agreement with SWRCC and its past practice, BSS assigned this work to the SWRCC's Carpenters.

The Laborers filed a grievance against both Brand Energy Services ("Brand Energy") and BSS after observing the work on the Aloft project (Laborers Ex. 2, Exhibit 9). However, the Laborers do not have an agreement with BSS, let alone an agreement for the work in dispute. Their claim to the disputed work is based on a 1997 short form agreement with Brand Scaffold Rental & Erection ("Brand Scaffold"), an entirely separate entity. (Laborers Ex. 2, Exhibit 1). Laborers have failed to show how BSS is contractually obligated to the Laborers under this agreement. BSS never signed this agreement and the Laborers have never performed this type of work for BSS in the Reno area.

The Laborers' new interest in the work prompted action by the Carpenters. The Carpenters threatened economic action, including striking and picketing. (Tr. 31:11-14; Carpenters Ex. 1) Based on these actions, the instant NLRB charge and proceedings followed.

IV. CONTENTION OF THE PARTIES

After observing the work being done on the Aloft project, the Laborers have filed multiple grievances against Brand. (Laborers Ex. 2, Exhibits 9 and 20). In response, Carpenters have threatened to strike and picket to protect its work assignment. (Carpenters Ex. 1). The Carpenters believe the work in dispute was correctly assigned to and completed by the Carpenters.

Laborers contend that there are no competing claims to the work at issue. (Tr. 21:7-8). To support its position, it cites to *Capitol Drilling*. *Capitol Drilling Supplies, Inc.*, 318 N.L.R.B. 809 (1995). This case does not support the Laborers' position. In that case, union 1 filed a grievance against the general contractor. Union 2 threatened to picket the subcontractor. The Board in that case emphasized the distinction between the claims against a general contractor from a claim

against a subcontractor. The Board should not be misled by the Laborers' erroneous interpretation of the *Capitol Drilling* decision – the decision does not provide that any and all grievances alleging a contractual dispute is not a claim to the work.

In this case, BSS is not a general contractor. (Tr. 39:23-25). Both the Laborers' and Carpenters' dispute were directed to the same subcontractor, BSS. (Carpenters Ex. 1; Laborers Ex.2, Exhibits 9 and 20). These are competing claims to the work which should be resolved through a 10(k) proceeding.

Accordingly, the Laborers' motion to quash should be overruled. The dispute should be determined based on the factors traditionally considered by the Board in resolving jurisdictional disputes.

V. THE STATUTE APPLIES

Before the Board may proceed with a determination of a dispute pursuant to Section 10(k) of the Act, it must be established that the parties have no agreed-upon method for a) voluntary adjustment of the dispute and b) a reasonable cause exists to believe that Section 8(b)(4)(D) has been violated. *Sierra Pacific Industries*, 314 NLRB 834, 835 (1994).

A. There is no Applicable Voluntary Adjustment Procedure

The parties stipulate that there is no voluntary adjustment procedure in place. (Tr. 18:14-15).

B. Reasonable Cause Exists to Believe that Section 8(B)(4)(D) Has Been Violated Because Both Unions Claim the Work at Issue and the Carpenters Have Threatened to Strike or Picket

A reasonable cause exists to believe that Section 8(b)(4)(D) has been violated if there is reasonable cause to believe that 1) there are competing claims for the disputed work between rival groups of employees and 2) a party has used proscribed means to enforce its claim to the work. *U.S. Information Systems, Inc.*, 326 N.L.R.B. 1382, 1383 (1998). The Board must decide whether

cases that do not precisely fit the model are nevertheless sufficiently like that two-part model to warrant intervention by the Board. *ILWU 14 v. NLRB*, 85 F.3d 646 (D.C. Cir. 1996).

1. There Are Competing Claims to the Work in Dispute Because of Carpenters' Collective Bargaining Agreement with Brandsafway Services, LLC and Local 169's Grievance Against Brandsafway Services, LLC

Here, competing claims to the work at issue exists. A collective bargaining agreement exists between BSS and Carpenters for the work in dispute:

> The character of such work covered by this agreement shall include but not be limited to all carpenters, concrete form work, shoring, drywall, metal studs, drywall finishing, plaster, scaffold, modular furniture, trade show work, insulation --

(Tr. 33:3-7; Employers Ex. 2)(emphasis added).

The Laborers filed grievances claiming the work at issue. (Laborers Ex. 2, Exhibits 9 and 20). In its August 1, 2019 grievance, the Laborers stated that it "recently observed workers employed by Brandsafway/Brand Energy Services successor (Brand) performing work, covered by the Laborers' Master Agreement (LMA) in effect between the Union and Brand on the Aloft Hotel project in Reno, and the Union recently became aware that Brand has been performing other work in the Union's Jurisdiction." (Laborers Ex. 2, Exhibit 9). Upon learning that BSS disputed the existence of any agreement between it and the Laborers, the Laborers filed another grievance against BSS to address this. (Laborers Ex. 2, Exhibits 19 and 20).

These grievances are the Laborers' claim to the work in dispute. See *L & M Plumbing*, 301 N.L.R.B. 1203, 1204 (1991) (finding the union's continued pursuit of grievance inconsistent with its asserted disclaimer of interest in disputed work). The Laborers attempts to circumvent the NLRB's authority to hear jurisdictional disputes by asserting that this is only a contractual dispute, and not a demand for the work. (Tr. 133:21-134:3). This belies the purpose underlying their contractual dispute. As Mr. Matt Headrick, branch manager for BSS, succinctly put it, "whether

there's a grievance to essentially say we claim this work, and then the grievance is now whether you have a contract or not; the only reason you care if we have a contract is so you can claim the work." (Tr. 58:10-15).

The Laborers would like to focus the Board's attention to the threshold issue in attempts to avoid the actual, ultimate issue – the claim to the work that the Laborers observed on the Aloft project. (Laborers Ex. 2, Exhibit 9). Initially, the Laborers pursued a grievance against both Brand Energy and BSS for the work they observed on the Aloft project. (Laborers Ex. 2, Exhibit 9). Then, when Mr. Daly learned that BSS disputed the existence of an agreement with the Laborers, he filed another grievance against BSS:

> [T]he Union had no reason to believe that a dispute over whether the LMA was in effect between the Union and Brandsafway Services LLC, existed until the September 10, 2019 meeting with Matt Headrick. Accordingly, in a separate letter the Union intends to file a grievance regarding the dispute between the Union and Brandsafway Services LLC (formerly known as Safway Services LLC) to address the existence or nonexistence of an agreement…

(Laborers Ex. 2, Exhibit 19).[1] This timeline clearly illustrates how these grievances all stem from the Laborers' claim to the work. While the existence of a contract is the threshold question, claiming the work is the Laborers' end-goal. It is improper and in bad faith for the Laborers to assert that they are not demanding the work while pursuing these grievances.

Capitol Drilling Supplies, Inc. supports a finding of competing claims where both claims are made against the same subcontractor. *Capitol Drilling Supplies, Inc.*, 318 N.L.R.B. 809 (1995). In that case, E&B Paving, Inc. (E&B) was the general contractor awarded the construction

[1] Mr. Daly argues that the August 1st grievance was later directed at the first company and then settled. (Tr. 108:17-19). However, this does not support his position that this grievance against BrandSafway Services was ever withdrawn. Nowhere in his October 1 letter does it state that the August 1 grievance against Brandsafway Services would be withdrawn. The MOU was with Brand Industries, and the MOU clearly states that it does not in "any way effects or serves to bind Brandsafway Services LLC (Services)." (Laborers Ex. 4). Thus, the Laborers claim to the work in dispute against BSS was never withdrawn or ever settled. Laborers' claim to the work remains unrebutted. Regardless, even if the August 1st grievance was withdrawn against BSS, its October grievance is also a claim to the disputed work.

project. E&B subcontracted Capitol Drilling Supplies, Inc. (Capitol) for a part of the project. E&B was a signatory to a collective bargaining agreement with the Operating Engineers which contained a clause restricting the subcontracting of work coming within the occupational jurisdiction of the Operating Engineers. Capitol assigned its work to the Laborers. The Operating Engineers filed a grievance against E&B alleging improper subcontracting of the work to Capitol. The Laborers threatened Capitol to picket and strike if the work was reassigned.

The Board in that case recognized that there is an important distinction between a dispute with the general contractor and a dispute with the subcontractor: "our holding simply recognizes that the two claims in this case do not conflict, i.e., they are *not* competing claims because <u>they involve two separate disputes.</u>" *Id.* at 810-811 n.4 (emphasis added). The Board held that a union's claim against a general contractor does not constitute a claim against the subcontractor. *Id.* at 810. Instead, if the union (Operating Engineers) had also made a claim for the work *directly* to the subcontractor (Capitol) that assigned the work, then there would have been truly competing claims. *Id.* at 811-12.

In this instant case, both Carpenters and Laborers have made a claim for the work *directly* to the subcontractor that has assigned the work; therefore, the Board should find truly competing claims. Mr. Daly, business manager/secretary treasurer for the Laborers, has pursued grievances against BSS, the subcontractor. (Tr. 28:8-15; Laborers Ex. 2, Exhibits 9 and 20). Unlike the claim in the *Capitol* case, both claims here are made against BSS, the subcontractor. Unlike the *Capitol* case, there is no separate dispute with the general contractor in this case:

> Q Apologize. I'll rephrase my questions. Was BrandSafway the general contractor on the Aloft project?
> A No.
> Q Did BrandSafway subcontract out the Carpenters' scope of work to another employer?
> A No.

(Tr. 40:6-11). Both claims are against the same entity, the subcontractor; therefore, there are truly competing claims to the work at issue here. Accordingly, the Board should deny the Laborers' motion to quash.

i. The Work Preservation Defense is Inapplicable Because the Laborers Have Never Done the Work in Dispute for Brandsafway Services.

In "*all* of the cases where the Board quashed a notice of hearing based on a work preservation claim, the work in dispute was historically performed by the union claiming the breach of its agreement with the employer." *Kinder Morgan Terminals*, 357 N.L.R.B. 2217, 2219 (2011) (emphasis added). To prevail on its work preservation defense, the union claiming work preservation must show that the employees it represents have previously performed the work in dispute and that it is not attempting to expand its work jurisdiction. *Airborne Express*, 340 N.L.R.B. 137, 139 (2003). In assessing whether the union previously performed the work in dispute, the Board looks at which employees have performed work for the specific employer, not whether employees in the multiemployer bargaining unit as a whole have performed the disputed work. *Int'l Longshore and Warehouse Union. AFL-CIO,* 367 N.L.R.B. No. 64 (January 31, 2019). When a union claims work for employees "who have not previously performed it, the objective is not work preservation, but work acquisition," a dispute the Board will resolve through a 10(k) proceeding. *Reber-Friel, Co.*, 336 N.L.R.B. 518, 521 (2001)(declining work preservation defense because the union members only performed work in question on a few isolated occasions).

Here, because the Laborers are claiming work that it has not historically performed, its objective is not work preservation, but work acquisition. The Laborers have failed to establish that they have traditionally performed the work in dispute. Any contractual claim to the work is based on a 1997 agreement with a company no longer in existence. (Tr. 142:18-20; 144:1-4). Actual performance of the work was done sporadically, and with companies no longer in existence. (Tr.

144:7-11). The work preservation defense does not apply because the Laborers only performed the work on a few isolated occasions. Even more pertinent is that the work was never done for this specific employer (BSS) in this geographical area. Without having performed the work for BSS, there is no work to preserve. The objective here is work acquisition. As such, this is a dispute that should be resolved through a 10(k) proceeding.

Despite Local 169's attempts to distract the Board from the actual issue, these facts present a jurisdictional dispute. The proper assignment of the disputed work should be based on the factors traditionally considered by the Board in resolving jurisdictional disputes.

2. Carpenters Engaged in Proscribed Activity When They Threatened to Strike and Picket

On September 9, 2019, SWRCC's Vice President and COO, Frank Hawk, threatened striking and picketing all BSS' jobs to protect Carpenters' work assignment from the Laborers' competing claim. (Tr. 31:11-14; Carpenters Ex. 1). The purpose was to protect its claim to the disputed work. Thus, Carpenters used proscribed means to protect its work.

VI. MERITS OF THE DISPUTE

The Board considers the following factors to determine assignment of work: 1) certifications and collective bargaining agreements; 2) employer preference and past practice; 3) area and industry practice; 4) relative skills and training; and 5) economy and efficiency of operations. *J.A. Jones Construction Company*, 135 N.L.R.B. 1410-11 (1962).

A. Certification and Collective Bargaining Agreements.

Neither of the unions involved have been certified by the Board as collective bargaining representative unit of the employer's employees. (Tr. 17:15-20).

Evidence demonstrates that only the Carpenters has a valid agreement with BSS. (Tr. 31:18-25; Employers Ex. 2). Section II, Work Jurisdiction, subsection (b) of the Carpenters' Master Labor Agreement states that:

> "The character of such work covered by this agreement shall include but not be limited to all carpenters, concrete form work, shoring, drywall, metal studs, drywall finishing, plaster, scaffold, modular furniture, trade show work, insulation --"

(Tr. 33:3-7; Employers Ex. 2)(emphasis added).

On the other hand, Laborers have failed to produce an agreement between it and BSS. Mr. Headrick has "asked many times at the beginning of this process to send me contracts that were signed, anything in writing, and I've been produced nothing." (Tr. 34:11-13). Instead, they offer a 1997 short form agreement between it and Brand Scaffold, an entirely separate entity. (Laborers Ex. 2, Exhibit 1). Moreover, the Laborers failed to provide what language in the corresponding Master Labor Agreement covers the work in dispute.

This agreement is not binding on BSS because Laborers have failed to establish how an agreement with Brand Scaffold binds BSS. Brand Scaffold and BSS are not a single employer:[2]

> So there is common ownership at the top of a tree of companies and holding companies, but there is no interrelation of management, no sharing of labor relations, function, no crossover of management or other personnel. And so, the company, as you've heard, is not related in terms of a single employer type relationship.

(Tr. 145:18-23). This is unrebutted. There is absolutely no testimony or evidence establishing Brand Scaffold and BSS as a single employer. Accordingly, the 1997 agreement cannot be expanded to cover BSS.

[2] The Supreme Court has set forth "controlling criteria" to determine whether several nominally separate business entities are to be deemed a single employer. These four criteria are: interrelation of operations, common management, centralized control of labor relations, and common ownership. *Radio & Television Broadcast Technicians Local Union 1264 v. Broadcast Service of Mobile Inc.*, 380 U.S. 255, 256 (1965).

While the Carpenters contract specifically covers the work in dispute, BSS has no contractual relationship with the Laborers. Thus, this factor favors the current assignment of the work to the Carpenters.

3. Brandsafway Services Prefers Assigning the Work to the Carpenters and Have Already Assigned the Work to the Carpenters.

The Board continues to follow the trend of awarding the work consistent with the employer's preferred assignment. *Newkirk Electric Associates, Inc.*, *AFL-CIO*, 365 N.L.R.B. No. 81; *Henkels & McCoy, Inc.*, 360 NLRB 819, 824 (2014) ("The factor of employer preference is generally entitled to substantial weight.").

Here, BSS clearly prefers the disputed work to be assigned to the Carpenters. Indeed, Mr. Headrick, branch manager for BSS, testified as much:

> Q: Does BrandSafway Services have a preference of whether to assign scaffolding work to the Carpenters or to the Laborers?
> A: Yes, we do.
> Q: What is that preference?
> A: The Carpenters.

(Tr. 61:10-14). This is further supported by the fact that the work has already been assigned to and completed by the Carpenters. (Tr. 47:18-20) See *Henkels & McCoy, Inc.*, 360 N.L.R.B. 819, 824 (2014); *AMS Construction*, 356 N.L.R.B. 306 (2010) (according weight to employer's stated preference and also considering its current assignment of work in dispute). As such, employer preference and prior assignment of work favors the current assignment of the work to the Carpenters.

4. Carpenters Have Substantial Area and Industry Practice in Scaffolding

It is BSS' past practice to assign work to the Carpenters. BSS' relationship with the Carpenters began 80 plus years ago. (Tr. 32:4-11). Not only that, <u>all</u> its scaffolding jobs in the Reno area have been assigned to the Carpenters. (Tr. 35:2-5). This is about 75 to 100 jobs a year. (Tr. 34:24-35:5). Other than its contract with BSS, the Carpenters are signed with 10+ other

standalone scaffolding contractors. (Tr. 69:19-70:7). The Carpenters are signed with more than 100 contractors who do scaffold work in the Reno area. (Tr. 70:19-22).

On the other hand, the Laborers do not perform scaffolding work for BSS in the Reno area. (Tr. 35:12-17). Even in the greater Nevada area, the Laborers have not performed scaffolding work since 2017. (Tr. 143:23-144:4). Other scaffold work that they performed were several years ago with now non-existent companies such as Aluma Systems. (Tr. 144:7-11). Laborers have not testified as to how many standalone scaffolding contractors they are signed with. (Tr. 70:11-14). More importantly, they have failed to show that they were doing any current scaffolding work. (Tr. 70:23-71:5).

5. Carpenters Have More Relevant Skills and Training to Perform the Work

Evidence shows that Carpenters have more relevant skills and training for the work in dispute. Carpenters have a four-year program that is exclusive to scaffold. (Tr. 71:6-14). "It's specifically for the business I run in Reno in terms of craft work." (Tr. 37:20-24).

On the other hand, the Laborers do not have a four-year scaffolding program. (Tr. 71:15-17). Instead, they have a general two-year program. Scaffolding is only taught peripherally, and even then, it focuses mainly on the assistance of the work. (Tr. 86:14-87:12).

6. Economy and efficiency of operations promote using Carpenters over Laborers

The Board found that the economy and efficient of operations factor favored the union that showed that they possessed the knowledge and skills to perform additional craft work. See e.g., *Walters & Lambert*, 309 N.L.R.B. 142, 145 (1992) (factor of economy and efficiency of operations favored the union that possessed knowledge and skills necessary to perform additional craft work); *Luedtke Engineering Co.*, 355 N.L.R.B. 302, 305 (2010) (finding economy

and efficiency favors awarding work to employees who can perform all aspects of work in dispute over employees who can perform only one aspect).

Employer Mr. Headrick testified that it was more economical and efficient to assign the disputed work to the Carpenters. (Tr. 38:17-21). He testified that Carpenters can work without limitations. They are trained better to not be limited to a certain scope of work or certain items. The Carpenters can perform every aspect of the job at issue. (Tr. 39:1-16).

In contrast, the Laborers are limited in their knowledge, skills, and training of scaffolding work. They do not build the scaffolds. They just assist. This means that when the Carpenters are building the scaffolds, Laborers would be sitting idly by. This is inefficient and not economical for the employer. *R&D Thiel*, 345 NLRB 1137, 1141 (2005)(considering additional costs associated with one group of employees sitting idle while another group works).

It would be more cost-efficient to have fewer employees accomplishing the same tasks. *Michels Pipline Construction, Inc.*, 338 N.L.R.B. 480, 484 (2002) (observing that "[h]aving fewer employees accomplishing the same task . . . reduces costs in time, money, and personal safety"). The Laborers repeatedly testified that they only assist the Carpenters. (Tr. 85:9-10; 120: 2-7; 119: 8-17). This means bringing materials from the truck to the Carpenters and cleaning up after the Carpenters. (Tr. 125:6-7). Carpenters can move their own materials and clean up after themselves. It would be more efficient to have fewer employees accomplishing the same task. Since the Carpenters can perform the entire scope of the work without limitations, hiring additional Laborers to do the work that the Carpenters can also do is clearly not cost effective.

VII. CONCLUSION

The dispute originated with the Laborers' demand for work when it filed its grievance against BSS and Brand Energy. Unlike the Laborers, the Carpenters have a direct collective bargaining agreement with BSS that covers the work in dispute. BSS prefers using the Carpenters to perform the work. The Carpenters have extensive area and industry practice involving the same or similar work. The Carpenters provide their members significant training on scaffolding. The Carpenters can perform the entire scope of the work, without limitations. Given that the Laborers only tend to Carpenters and claim only a portion of the work in dispute, economy and efficiency favor assigning the work to Carpenters. For these reasons, the Board should find that the work was correctly assigned to the Carpenters.

VIII. A BROAD ORDER IS WARRANTED

Where the evidence indicates that a jurisdictional dispute is likely to recur, the Board will issue an award broad enough to encompass the geographical area in which an employer does business and the jurisdictions of the competing unions coincide. See e.g., *Fabcon*, 311 N.L.R.B. 87 (1993); *Modern Acoustics*, 267 N.L.R.B. 1123 (1983).

The disputed work will not be limited to the Aloft project. It is easily foreseeable that pressure from the Laborers to reassign the same types of work will recur. Indeed, the Board only needs to look at the language in the Laborers' first grievance against BSS and Brand Energy. The August 1, 2019 grievance states that the Laborers "recently observed workers employed by Brandsafway/Brand Energy Services successor (Brand) performing work, covered by the Laborers' Master Agreement (LMA) in effect between the Union and Brand on the Aloft Hotel project in Reno, **and** the Union recently became aware that Brand has been performing other work in the Union's Jurisdiction." (Laborers Ex. 2, Exhibit 9)(emphasis added)

This language alone illustrates the Laborers' position to similar work. They are not limiting their grievance to this Aloft project. Instead, they believe other work similar to the work in dispute are within their jurisdiction.

This is further supported by BSS' conversations with the Laborers. As Mr. Headrick testified, voicemail and conversations with Mr. Daly indicated that their demand for work was broader than the Aloft job. The Laborers have repeatedly made this clear:

> A I mean, almost every conversation has been broader than just the Aloft job alone. It's been we should be assigning this work to the Laborers Union. That's pretty much been the majority of conversations we've had --
> Q Okay.
> A -- that and whether we have a contract or not. Those two key topics have pretty much been the last year.
> Q Okay. Anything else that you heard from the Laborers Union to indicate their demand for assignment of work was broader than the Aloft job?
> A Oh, well, yeah. I mean, one of the first conversations and emails with Skip was centered around an agreement with a different company and Curtis (phonetic) and Jeff Mopin (phonetic) and about their agreement to use Laborers on work in Reno. It had nothing to do with the Aloft job. It didn't even exist then. So the basis of our first conversations were centered around work in Reno and using Laborers.
> Q Okay. And you -- it's -- those conversations took place prior to the Aloft job?
> A No, those conversations, I believe, started because of the Aloft job.
> Q Oh, okay.

(Tr. 62:23-63:25)

Even more significantly, while the 10(k) hearing was in progress, a Laborer was outside another BSS job, the Double R project, taking pictures of the scaffolding. (Tr. 138:17-139:3; Employer Ex. 4). This was a job that BSS had disclosed to the Laborers asking whether they would claim or disclaim the work. The Laborers refused to disclaim the work. The reason is clear. The Laborers are scoping out the other BSS jobs in preparation to make a claim to the work.

The Laborers will keep making claims to similar work. It is the reason behind its grievances to find the existence of a contract between them and BSS. Without an intent to bid

regularly on this type of work, it would be a pointless endeavor to seek a valid contract with a standalone scaffolding contractor.

Based on the evidence in this record, the Board should find that this dispute is likely to recur. Accordingly, the issuance of a broad award is appropriate in this case.

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that she has served a copy of the foregoing BRIEF OF SOUTHWEST REGIONAL COUNCIL OF CARPENTERS UNDER NATIONAL LABOR RELATIONS ACT § 10(k), by electronic mail upon:

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